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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/002,948

Filing Date: October 18, 2001

Appellant(s): ALEXANDER ET AL.

Blaise Alexander
Joan M. Falls
Les Puglia
Matthew Yeager

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 4, 2008 appealing from the Office action mailed July 10, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5774883	Andersen et al.	6-1998
5218539	Elphick et al.	6-1993
EP 762363 A1	STREIT et al.	3-1997
Official Notice evidenced by	Highbloom	8-1991
5,323,315		

Robyn Meredith; A Car, with a Catch When Credit is Bad; 8/30/1999; New York Times;
Late Edition (East Coast); pg. A15

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1 and 3-27 are presented for examination. Appellant filed an amendment on 2/8/2008 canceling claim 2 and amending claims 1, 7, 12, 19, 21-22 and 25. In view of Appellant's amendment, the Examiner withdraws the grounds of rejection of claims 1-27 based on 35 USC 112, 35 USC 102 and 35 USC 103. However, new grounds of rejection of claims 1 and 3-27 necessitated by Appellant's amendment are established in the instant office action as set forth in detail below.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "currently published retail value" in claim 7 is vague and indefinite, it is

unclear whether the device has to actually perform upon activation of rendering the vehicle operable for a predetermined period of time, the vehicle otherwise being inoperable with the installed device or not.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Clams 1, 8, 10-12, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable by Robyn Meredith (PTO 892 form U) in view of Official Notice (evidenced by Highbloom, US Patent Number: 5,323,315).
2. As per claim 1, Robyn teaches a method for leasing a motor vehicle to a credit challenged customer comprising the steps of:
 - selecting a vehicle based on predetermined financial criteria (¶ 22-23, ¶ 13, ¶ 15 and ¶ 18-19);
 - approving a lease for the vehicle (¶ 1 and 5);
 - funding the lease (¶ 1, 5, 8, 12 and 29), wherein funding the lease comprises:
 - selecting and installing into the vehicle a device configured to render the vehicle operable for a predetermined period of time, the vehicle otherwise being inoperable with the installed device (¶ 1; ¶ 4-5);

activating the device to render the vehicle operable for a predetermined lease period after receiving a predetermined lease payment from the customer for the predetermined lease period (¶ 1; ¶ 4-5).

delivering the vehicle to the customer (¶ 1 and 3).

Robyn does not teach: establishing a leasing company by an auto dealership; acquiring a line of credit from a lending institution by the leasing company for providing a pool of funds for a plurality of leases, the line of credit including an interest based upon a plurality of credit parameters associated with the dealership. Official Notice is taken that establishing a leasing company and acquiring a line of credit, the line of credit including an interest is old and well known in the business of leasing as a convenient way for company to provide customer integrated service in a timely and efficient manner. Therefore, it would have been obvious to one of the ordinary skill of the art at the time of the invention to have included establishing a leasing company by an auto dealership; acquiring a line of credit from a lending institution by the leasing company for providing a pool of funds for a plurality of leases, the line of credit including an interest based upon a plurality of credit parameters associated with the dealership to leasing a motor vehicle. The Official Notice described above is evidenced by Highbloom (column 1, lines 18-42; column 2, lines 14-39; column 13).

3. As per claim 8, Robyn and Official Notice teach the method of claim 1 described above. Robyn further teaches the step of approving the lease is performed electronically (¶ 1).

4. As per claim 10, Robyn and Official Notice teach method of claim 1 described above. Robyn further teaches including the step of tracking predetermined lease information by a microprocessor (¶ 1; 5; 28).

5. As per claim 11, Robyn and Official Notice teach the method of claim 1 described above.

Robyn further teaches including the step of transferring lease information to a third party wherein the third party tracks the lease and issues at least one predetermined lease schedule (¶ 1; 5; 28).

6. As per claim 12, Robyn and Official Notice teach the method of claim 1 described above.

Robyn further teaches wherein the device configured to render the vehicle operable for a predetermined period of time comprises a device with a microprocessor connected to the vehicle's ignition system to prevent starting of the vehicle without a predetermined authorization (¶ 1; 5; 28).

7. As per claim 18, please refer to claim 1 rejection described above.

8. As per claim 19, Robyn and Official Notice teach a system for leasing a motor vehicle to a credit challenged consumer comprising:

a device configured to render the vehicle operable for a predetermined period of time, the vehicle otherwise being inoperable with the installed device (¶ 1);

means for obtaining a funded lease for the vehicle (¶ 4-5); and

a means for activating the device upon payment of a predetermined lease amount (¶ 5).

Robyn does not teach: the means for obtaining being configured to compute at least one predetermined financial parameter in electronic form based on at least one financial parameter associated with the consumer. Official Notice is taken that means for to compute predetermined financial parameter in electronic form based on financial parameter is old and well known in the business of leasing as a convenient way for company to provide customer integrated service in a timely and efficient manner. Therefore, it would have been obvious to one of the ordinary skill

of the art at the time of the invention to have included means for to compute predetermined financial parameter in electronic form based on financial parameter to leasing a motor vehicle.

9. Claims 3-7, 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robyn (PTO-892 reference U) in view of Official Notice.

10. As per claim 3 or 20, Robyn and Official Notice teach the claim 1 or 19 described above. Robyn further teaches wherein the value of the line of credit is substantially equal to an amount of business anticipated during a predetermined period. Official Notices is taken that the line of credit is substantially equal to an amount of business anticipated is old and well established in the business of funding lease for a motor vehicle. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the step of funding the lease further includes the line of credit is substantially equal to an amount of business anticipated to the method for funding the lease.

11. As per claim 4, Robyn and Official Notice teach the claim 1 described above. Robyn does not teach the predetermined financial criteria comprises the customer's need based on a dollar value per week lease payment the customer can afford. Official Notices is taken that the customer's need based on payment the customer can afford is old and well established in the business of funding lease for a motor vehicle. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the customer's need based on payment the customer can afford to the method for funding the lease.

12. As per claim 5, Robyn and Official Notice teach the method of claim 1 described above. Robyn does not wherein the vehicle selected is selected from the group consisting of a current

model year vehicle to a 5 model years old vehicle for a 36 month term lease; a 6 model years old vehicle to an 8 model years old vehicle for a 24 month term lease; and a 9 model years old vehicle to a 10 model years old vehicle for a 12 month term lease. Official Notices is taken that select vehicle model base on the leasing term is old and well established in the automobile leasing industry to assist the leasing company to select vehicle for its customer. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included that select vehicle model base on the leasing term to the method for funding the lease.

13. As per claim 6, Robyn and Official Notice teach the method of claim 1 described above. Robyn does not teach wherein the vehicle selected is selected from the group consisting of a vehicle with less than about 60,000 miles for a maximum 36 month lease term; a vehicle with about 60,000 miles to about 100,000 miles for a maximum 24 month lease term; and a vehicle with about 100,000 miles to about 130,000 miles for a maximum 12 month lease term. Official Notices is taken that select vehicle base on mileage or lease term is old and well established in the automobile leasing industry to assist the leasing company to select vehicle for its customer. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included that select vehicle base on mileage or lease term to the method for funding the lease.

14. As per claim 7, Robyn and Official Notice teach the method of claim 1 described above. Robyn does not teach wherein the lease has a maximum net capitalized cost no greater than 120% of currently published retail value. Official Notices is taken that lease has a cost not greater than certain percentage of retail value is old and well established in the automobile leasing industry to assist the leasing company to select vehicle for its customer. It would have

been obvious to one having ordinary skill in the art at the time of the invention to have included that lease has a cost not greater than certain percentage of retail value to the method for funding the lease.

15. As per claim 9, Robyn teaches the method of claim 1 described above. Robyn does not teach wherein the step of approving the lease is performed by a reviewer. Official Notices is taken that the step of approving the lease is performed by a reviewer is old and well established in the business of funding lease for a motor vehicle. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the step of approving the lease is performed by a reviewer the method for funding the lease.

16. Claims 21-22 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robyn (PTO-892 reference U) in view of Official Notice.

17. With reference to claim 21, the specifics of the funding the lease and selected vehicle can be construed as non-functional descriptive material and are not functionally related to the method for leasing said selected vehicle. Said non-functional descriptive material is given little patentable weight. See Gulack, 703 F.2d at 1384, 217 USPQ at 403; see also Diehr, 450 U.S. at 191, 209 USPQ at 10.

18. As per claim 22, Robyn and Official Notice teach the system of claim 21 described above. Robyn et al. further teaches wherein the device is configured to render activation of rendering the vehicle operable for a predetermined period of time comprises a device with a microprocessor connected to the vehicle's ignition system to prevent starting of the vehicle without a predetermined authorization (paragraph 1, 11-12).

19. As per claim 25, Robyn and Official Notice teach the system of claim 22 described above. Robyn further teaches wherein the activating means comprises:

the microprocessor configured to, upon delivery of the vehicle to the customer, receive a plurality of predetermined authorization codes, each of the codes upon activation rendering the vehicle operable for the predetermined period; wherein one authorization code being supplied to the customer for a paid predetermined period; the authorization code for the paid predetermined period, rendering the vehicle operable for the predetermined period when entered into the microprocessor (paragraph 1, 11-12).

20. With reference to claim 26, the specifics of the lease term can be construed as non-functional descriptive material and are not functionally related to the method for leasing said selected vehicle. Said non-functional descriptive material is given little patentable weight. See Gulack, 703 F.2d at 1384, 217 USPQ at 403; see also Diehr, 450 U.S. at 191, 209 USPQ at 1

21. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robyn (PTO-892 reference U), in view of Official Notice, further in view of Simon et al., US Patent Number 6,195,648 (PTO-892 form B).

22. As claim 13, Robyn and Official Notice teach the method of claim 1 described above. Robyn does not teach wherein the step of activating the device comprises transferring an authorization code selected from the group consisting of using a keypad, via radio waves and via a cellular telephone. Simon et al. further teaches wherein the step of activating the device comprises transferring an authorization code selected from the group consisting of using a keypad, via radio waves and via a cellular telephone (see column 7, lines 38-53, where “radio frequency” is equivalent of “radio wave” and column 10, lines 19-20).

Therefore, it would be *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to add the step of activating the device feature to the method of Robyn because Simon teaches that adding the feature help to improve timely repayment of a loan (see column 2, lines 61-64 of Simon et al.).

23. As per claim 14, Robyn and Official Notice teach the method of claim 13 described above. Robyn does not teach entering into the microprocessor upon delivery of the vehicle to the customer a plurality of predetermined authorization codes, each of the codes upon activation rendering the vehicle operable for the predetermined period; supplying to the customer the authorization code for a paid predetermined period; and entering into the microprocessor the authorization code for the paid predetermined period, thereby rendering the vehicle operable for the paid predetermined period.

Simon et al. further teaches wherein the step of activating the device to render the vehicle operable for the predetermined lease period comprises the steps of:

entering into the microprocessor upon delivery of the vehicle to the customer a plurality of predetermined authorization codes, each of the codes upon activation rendering the vehicle operable for the predetermined period; supplying to the customer the authorization code for a paid predetermined period; and entering into the microprocessor the authorization code for the paid predetermined period, thereby rendering the vehicle operable for the paid predetermined period (see abstract, column 1, line 62-column 2, line 55, and column 6, line 50-column 7, line 3).

Therefore, it would be *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to add entering into the microprocessor upon delivery of the vehicle to

the customer a plurality of predetermined authorization codes feature to the method of Robyn because Simon teaches that adding the feature help to improve timely repayment of a loan (see column 2, lines 61-64 of Simon et al.).

24. As per claim 15, Robyn, Official Notice and Simon et al. teach the method of claim 14 described above. Robyn further teaches wherein the paid predetermined period is a lease payment period (¶ 1).

25. As per claim 16, Robyn, Official Notice and Simon et al. teach the method of claim 14 described above. Robyn does not teaches the plurality of predetermined authorization codes includes an emergency code for allowing the vehicle to be operated for a period of predetermined short duration in response to an emergency and a reset code for resetting a previously activated emergency code. Simon further teaches the plurality of predetermined authorization codes includes an emergency code for allowing the vehicle to be operated for a period of predetermined short duration in response to an emergency and a reset code for resetting a previously activated emergency code (see column 7, lines 18-53).

Therefore, it would be *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to add the plurality of predetermined authorization codes includes an emergency code feature to the method of Robyn because Simon teaches that adding the feature help to improve timely repayment of a loan (see column 2, lines 61-64 of Simon et al.).

26. Claims 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robyn (PTO-892 reference U), in view of Official Notice, further in view of Donald Streit (PTO-892 reference V).

27. As per claim 17, Robyn and Official Notice teach the method of claim 1 described above. Robyn does not teach the method further including the step of selecting and installing in the vehicle a device for tracking the vehicle selected from the group consisting of a Global Positional System device and a Radio Frequency Identification device. Donald teaches the method further including the step of selecting and installing in the vehicle a device for tracking the vehicle selected from the group consisting of a Global Positional System device and a Radio Frequency Identification device (see abstract).

Therefore, it would be *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to add the step of selecting and installing in the vehicle a device for tracking the vehicle selected from the group consisting of a Global Positional System device and a Radio Frequency Identification device feature to the method for leasing a motor vehicle of Robyn because Donald teaches that adding the features help to track a vehicle (see abstract and column 2).

28. As per claim 23, Robyn and Official notice a system of claim 19 described above. Donald further teaches comprise a device for tracking the vehicle selected from the group consisting of a Global Positional System device and a Radio Frequency Identification device (see abstract).

Therefore, it would be *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to add a device for tracking the vehicle selected from the group consisting of a Global Positional System device and a Radio Frequency Identification device feature to the system for leasing a motor vehicle of Simon et al. because Donald teaches that adding the features help to track a vehicle (see abstract and column 2).

29. Claims 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robyn (PTO-892 reference U), in view of Official Notice, further in view of Simon et al. (PTO-892 reference B).

30. As per claim 24, Robyn and Official Notice the system of claim 19 described above. Simon et al. further teaches wherein the means for activating the device includes transferring an authorization code selected from the group consisting of using a keypad, via radio waves and via a telephone (see column 7, lines 38-53 and column 10, lines 19-20).

Therefore, it would be *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to add wherein the means for activating the device includes transferring an authorization code selected from the group consisting of using a keypad, via radio waves and via a telephone feature to the system for leasing a motor vehicle of Robyn. Because Simon teaches that adding the feature help to enable and disable equipment in response to receipt of loan payments (column 3, lines 1-3).

35. As per claim 27, Robyn and Official Notice teach the system of claim 25 described above. Simon et al. further teaches wherein the plurality of predetermined authorization codes includes an emergency code for allowing the vehicle to be operated for a period of predetermined short duration in response to an emergency and a reset code for resetting a previously activated emergency code (see column 7, lines 18-37).

Therefore, it would be *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to add an emergency code for allowing the vehicle to be operated for a period of predetermined short duration in response to an emergency and a reset code for resetting a previously activated emergency code to the system for leasing a motor vehicle of Robyn

Because Simon teaches that adding the feature help to enable and disable equipment in response to receipt of loan payments (column 3, lines 1-3).

(10) Response to Argument

In the appeal brief filed December 04, 2008, Appellant makes the following arguments:

Claims 1, 8, 10-12 and 18-19

(A) Robyn does not teach or suggest "funding the lease, wherein funding the lease comprises: establishing a leasing company by an auto dealership; acquiring a line of credit from a lending institution by the leasing company for providing a pool of funds for a plurality of leases, the line of credit including an interest based upon a credit parameters associated with the dealership.

Claims 3-7, 9 and 20

(A) Appellant argues that certain dependent claims are patentable based on their dependence on the independent claims previously argued.

Claims 21-22 and 25-26

(A) Appellant argues that Robyn and Official Notice do not render the claims obvious.

Claims 13-16

(A) Appellant argues that certain dependent claims are patentable based on their dependence on the independent claims previously argued.

Claims 17 and 23

(A) Appellant argues that certain dependent claims are patentable based on their dependence on the independent claims previously argued.

Claims 24 and 27

(A) Appellant argues that certain dependent claims are patentable based on their dependence on the independent claims previously argued.

Claim 7

(A) Appellant argues that the term "currently published retail value" is not vague and indefinite. Examiner will address the Appellant's arguments in sequence as they appear in the Brief.

Claims 1, 8, 10-12 and 18-19

Argument (A):

In response to Appellant's first argument that Robyn does not teach or suggest "funding the lease, wherein funding the lease comprises". The Examiner disagrees. "Robyn teaches "leases the cars to anyone who can come up with at least \$ 50 a week ... pays \$75.96 a week to lease a light blue 1991 Ford Escort ... \$13 million of that money will be used to finance up to 1,200 additional leases on vehicles with the on-time device" (paragraphs 1, 5, 8, 12 and 19). Therefore, Robyn disclosed the claimed invention. The appellant also argues that Robyn does not teach or suggest "establishing a leasing company by an auto dealership; acquiring a line of credit from a lending institution by the leasing company for providing a pool of funds for a plurality of leases, the line of credit including an interest based upon a credit parameters associated with the dealership." Even though the appellant did not challenge the examiner's use of Official Notice, I cite Highbloom. The examiner also cites that in the KSR states "Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art".

Claims 3-7, 9 and 20

Argument (A):

In response to Appellant's argument that certain dependent claims are patentable based on their dependence on the independent claims previously argued. Accordingly, the Examiner directs Appellant to the remarks above concerning the independent claims.

Claims 21-22 and 25-26

(A) In response to Appellant's argument that Appellant argues that Robyn and Official Notice do not render the claims obvious. The Examiner directs Appellant to the remarks above concerning the independent claims.

Claims 13-16

Argument (A):

In response to Appellant's argument that certain dependent claims are patentable based on their dependence on the independent claims previously argued. Accordingly, the Examiner directs Appellant to the remarks above concerning the independent claims.

Claims 17 and 23

Argument (A):

In response to Appellant's argument that certain dependent claims are patentable based on their dependence on the independent claims previously argued. Accordingly, the Examiner directs Appellant to the remarks above concerning the independent claims.

Claims 24 and 27

Argument (A):

In response to Appellant's argument that certain dependent claims are patentable based on their dependence on the independent claims previously argued. Accordingly, the Examiner directs Appellant to the remarks above concerning the independent claims.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained. Respectfully submitted,

Marissa Liu

Conferees:

/James P Trammell/
Supervisory Patent Examiner, Art Unit 3694

/Mary Cheung/
Primary Examiner, Art Unit 3694

/Marissa Liu/
Examiner, Art Unit 3694